

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1588.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF POWDERED COCOA.

On October 30, 1911, the United States Attorney for the Western District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 16 cases, each case containing six 5-pound packages of powdered cocoa, and eight drums, each drum containing 25 pounds of powdered cocoa, remaining unsold in the original unbroken packages, and in the possession of the Waco Drug Co., a corporation, Waco, Tex., alleging that the product had been shipped on August 26, 1911, by the Meyer Bros. Drug Co., St. Louis, Mo., and transported from the State of Missouri into the State of Texas, and alleging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled in part: "Wadruco brand dark cocoa, powdered, blended especially for use at the soda fountain. Waco Drug Co., Waco, Texas." Adulteration was alleged in the libel for the reason that the product had been prepared with and contained added alkali or alkaline salts, and by the use of such alkali or alkaline salts in the preparation of the product to which it had been added and was contained therein, as aforesaid, such alkali or alkaline salts had been substituted in part for the product. Misbranding was alleged for the reason that the product had been prepared with and contained added alkali or alkaline salts, and the branding and labeling of it failed to disclose or make any statement or reference of any character whatever to the effect that it had been prepared with and contained added alkali or alkaline salts, and the labeling and branding of the product was misleading in failing to make any disclosure or statement to the effect that it had

been prepared with and contained added alkali or alkaline salts which had been substituted in part for cocoa. Misbranding was alleged for the further reason that by the use and means of the labels and brands on the product it was made to appear that said product was manufactured by the Waco Drug Co., Waco, Tex., when in truth and in fact said company was not the manufacturer of the product but it was manufactured at a point in some State other than that of the State of Texas, and such labeling and branding was false and misleading as to the State and place in which said product was in fact manufactured.

On November 21, 1911, the Waco Drug Co., Waco, Tex., and the Meyer Bros. Drug Co., St. Louis, Mo., claimants, having filed their answers admitting the allegations of the libel, and the Meyer Bros. Drug Co., alleging that the product was purchased by it from Stollwerck Bros. (Inc.), New York, N. Y., under a guarantee that it complied in all respects with the Food and Drugs Act, judgment of condemnation and forfeiture was entered, and it was further ordered that upon payment of all costs of the proceedings by the claimants and presentation of bond by them in conformity with section 10 of the Act, fixed by the court at \$300, the 16 cases and 7 drums of the product that had been seized should be released and delivered to said claimants.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *June 13, 1912.*